

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	Civil No
)	
v.)	
)	COMPLAINT
EQUISTAR CHEMICALS, LP)	
)	
Defendant.)	
_____)	

The United States of America, by authority of the Attorney General of the United States and through its undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency (“EPA”), files this complaint and alleges as follows:

INTRODUCTION

1. This is a civil action brought pursuant to Section 113(b) of the Clean Air Act (“the Act” or “the CAA”), 42 U.S.C. § 7413(b), for injunctive relief and the assessment of civil penalties against Equistar Chemicals, LP doing business in Calcasieu Parish, Louisiana (“Equistar”), for violations of the Act and the regulations promulgated thereunder.

2. Authority to bring this action is vested in the United States Department of Justice pursuant to 28 U.S.C. §§ 516 and 519 and 42 U.S.C. § 7605.

NOTICE

3. On July 29, 2003, pursuant to Section 113(a)(1) and (a)(3) of the Act, 42 U.S.C. § 7413(a)(1) and (a) (3), EPA issued a Notice of Violation of the State Implementation Plan and the Act to Equistar. EPA sent copies of the Notice of Violation to the Louisiana Department of

Environmental Quality.

4. Notice of the commencement of this action has been given to the State of Louisiana, as required by Section 113(b) of the Act, 42 U.S.C. § 7413(b).

JURISDICTION

5. This Court has Jurisdiction over the subject matter of this action pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), and pursuant to 28 U.S.C. §§ 1331, 1345, and 1355. The Court also has jurisdiction over the parties to this action.

VENUE

6. Venue is proper in this Judicial District, pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b) and 28 U.S.C. §§ 1391(b) and 1395(a), as it is the judicial district where the violations occurred as well as where the Defendant can be found.

PARTIES

7. Plaintiff is the United States of America acting on behalf of the Administrator of EPA (hereinafter “Administrator”) pursuant to 28 U.S.C. §§ 516 and 519 and Section 305 of the Act, 42 U.S.C. § 7605.

8. Defendant is Equistar Chemicals, LP (hereinafter “Equistar”). Equistar owns and operates an Ethylene-Propylene Unit in Sulphur, Louisiana (the “Plant”) where the violations occurred.

9. Through a series of successive and concurrent partnership agreements, the Plant, which was initially owned by Occidental Chemical Corporation (“Oxychem”), is now owned by Equistar.

10. Equistar is a “person” within the meaning of Section 302(e) of the Act, 42 U.S.C. § 7602(e).

**STATUTORY AND REGULATORY BACKGROUND
AND GENERAL ALLEGATIONS**

11. The Clean Air Act, 42 U.S.C. §§ 7401 *et seq.*, established a comprehensive scheme for pollution prevention and control, as described in Section 101 of the Act, 42 U.S.C. § 7401.

New Source Performance Standards

12. Section 111 of the Act, 42 U.S.C. § 7411, requires EPA to promulgate standards of performance for certain categories of new air pollution sources (“New Source Performance Standards” or “NSPS”).

13. The general provisions of the NSPS regulations apply to the owners and operators of any facility to which a more specific NSPS applies. The general provisions are set forth in Subpart A of Part 60, 40 C.F.R. §§ 60.1 - 60.19.

Background: NSPS Subpart VV - VOC Leaks

14. The standards of performance for equipment leaks of Volatile Organic Compounds (“VOC”) in the Synthetic Organic Chemical Manufacturing Industry (“SOCMI”) are set forth at 40 C.F.R. Part 60, Subpart VV, 40 C.F.R. §§ 60.480 - 60.489.

15. Pursuant to 40 C.F.R. § 60.482-7(d)(2), a first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

16. Pursuant to 40 C.F.R. § 60.482-7(c)(2), if a leak is detected the valve shall be monitored monthly until a leak is not detected for two successive months.

17. Pursuant to 40 C.F.R. § 60.482-7(d)(1), a leak shall be repaired as soon as practicable, but not later than 15 calendar days after a leak is detected, with certain exceptions not relevant to this matter.

General Allegations: NSPS Subpart VV - VOC Leaks

18. Equistar's Plant is in the "synthetic organic chemical manufacturing industry" within the meaning of 40 C.F.R. § 60.481 because it produces, as intermediate or final products, chemicals listed in § 60.489, including, without limitation ethylene and propylene.

19. The Ethylene-Propylene Unit within the Plant is a "process unit" within the meaning of 40 C.F.R. § 60.481 that is subject to Subpart VV because the unit produces, as intermediate or final products, chemicals listed in § 60.489, including, without limitation, ethylene and propylene.

20. Pursuant to 40 C.F.R. § 60.480(a)(2), "all equipment" within the Ethylene-Propylene Unit is the "affected facility" regulated by Subpart VV.

21. The construction or modification of equipment within the Ethylene-Propylene Unit commenced after January 5, 1981, so all equipment within the Ethylene-Propylene Unit is subject to the requirements of Subpart VV.

Background: NSPS Subpart Kb - Storage Tanks

22. The standards of performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced after July 23, 1984 are set forth at 40 C.F.R. Part 60, Subpart Kb, 40 C.F.R. §§ 60.1106 - 60.1176.

23. Subpart Kb requires owners and operators of regulated storage vessels that are

equipped with a closed vent system and a flare which is used as a control device to meet the requirements as specified in the general control device requirements in 40 C.F.R. § 60.18(e) and (f). 40 C.F.R. § 60.113b (d).

24. Subpart A requires the owners and operators to perform tests and calculations, including, *inter alia*, a visible emissions test, a calculation of the net heating value of the gas combusted in the flare, a determination of the actual exit velocity of the flare, and determination of the maximum permitted velocity of the flare. Subpart A also requires that the results of these tests be reported to EPA. 40 C.F.R. §§ 60.8 and 60.18.

Enforcement: NSPS

25. Section 111(e) of the Act, 42 U.S.C. § 7411(e), prohibits the owner or operator of any new source from operating the source in violation of any applicable NSPS regulation.

26. Whenever any person has violated, or is in violation of the Act, including the NSPS, Section 113(b) of the Act, 42 U.S.C. § 7413(b), authorizes the United States to commence a civil action for permanent or temporary injunction, or to assess and recover a civil penalty of not more than \$25,000 per day for each violation, or both. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), the Debt Collection Improvement Act of 1996, Pub. L. 104-134, and 40 C.F.R. § 19.4 (table), civil penalties of up to \$27,500 per day for each violation may be assessed for violations occurring on or after January 30, 1997.

National Emission Standards for Hazardous Air Pollutants

27. The CAA requires EPA to establish emission standards for each “hazardous air pollutant” in accordance with Section 112 of the Act, 42 U.S.C. § 7412.

28. Pursuant to Section 112(d) of the Act, 42 U.S.C. § 7412(d), EPA promulgated

general provisions applicable to all standards contained in 40 C.F.R. Part 61. These general provisions are set forth at 40 C.F.R. Part 61, Subpart A.

29. Pursuant to 40 C.F.R. § 61.01(c), 40 C.F.R. Part 61 applies to the owner or operator of any stationary source for which a standard is prescribed under Part 61.

30. Pursuant to Section 112(d) of the Act, 42 U.S.C. § 7412(d), the EPA listed benzene as a hazardous air pollutant and promulgated National Emission Standards for Equipment Leaks (Fugitive Emission Sources) of Benzene (the “Benzene NESHAP”). These regulations are set forth at 40 C.F.R. Part 61, Subpart J. Subpart J, in turn, provides that each owner or operator subject to the requirements of Subpart J shall comply with the requirements of 40 C.F.R. Part 61, Subpart V.

31. Pursuant to 40 C.F.R. § 61.02, the Plant is a “stationary source” with Standard Industrial Classification (“SIC”) number 2869 (industrial organic chemicals).

32. Pursuant to 40 C.F.R. § 61.110(a), the provisions of 40 C.F.R. Part 61, Subpart J apply to each of the following sources that are intended to operate in benzene service: pumps, compressors, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, surge control vessels, bottoms receivers, and control devices or systems required by this subpart.

33. Equistar operated pumps, compressors, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, surge control vessels, bottoms receivers, and control devices or systems required by 40 C.F.R. Part 61, Subpart J “in benzene service.”

34. 40 C.F.R. § 61.111 defines “in benzene service” to mean that a piece of

equipment either contains or contacts a fluid (liquid or gas) that is at least 10% benzene by weight as determined by 40 C.F.R. § 61.245(d).

35. The standards of 40 C.F.R. Part 61, Subpart J, the National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene applies to Equistar.

36. Whenever any person has violated, or is in violation of the Act, including the NESHAP, Section 113(b) of the Act, 42 U.S.C. § 7413(b), authorizes the United States to commence a civil action for permanent or temporary injunction, or to assess and recover a civil penalty of not more than \$25,000 per day for each violation, or both. Pursuant to Section 113(b) of the Act, 42 U.S.C. 1 7413(b), the Debt Collection Improvement Act of 1996, Pub. L. 104-134, and 40 C.F.R. § 19.4 (table), civil penalties of up to \$27,500 per day for each violation may be assessed for violations occurring on or after January 30, 1997.

**FIRST CLAIM FOR RELIEF
(NSPS - Subpart VV)**

Failure to Attempt a First Repair, Repair, and Monitor Valve 3097

37. Paragraphs 1 through 20, 24, and 25 of the Complaint are incorporated herein by reference as if fully set forth below.

38. “Equipment” within the Ethylene-Propylene Unit that is subject to the requirements of Subpart VV includes, pursuant to 40 C.F.R. § 60.481, “valves” “in VOC service.” “In VOC service,” pursuant to 40 C.F.R. § 60.481, means that the equipment contains or is in contact with a process fluid that is at least 10% VOC by weight. Ethylene is a “VOC” within the meaning of 40 C.F.R. § 60.481 and 40 C.F.R. § 60.2.

39. Valve No. 3097 is a valve within the Ethylene-Propylene Unit and is in contact with a process stream that is 100% ethylene. Valve No. 3097 is a valve “in VOC service” within

the meaning of 40 C.F.R. § 60.481.

40. Valve No. 3097 is subject to the requirements of Subpart VV.

41. Valve No. 3097 is “in light liquid” service within the meaning of 40 C.F.R.

§§ 60.481 and 60.482-7.

42. Valve 3087 is subject to 40 C.F.R. § 60.482-7, “Standards: Valves in gas/vapor service and in light liquid service.”

43. On October 27, 1998, Valve No. 3097 was monitored and an instrument reading of greater than 10,000 ppm was detected. Pursuant to 40 C.F.R. § 60.482-7(b), if an instrument reading of 10,000 ppm or greater is measured, a leak is detected. On October 27, 1998, a “leak” within the meaning of 40 C.F.R. § 60.482-7(b) was detected.

44. Equistar repaired and monitored Valve No. 3097 (by replacing it) on January 20, 1999.

45. Equistar violated 40 C.F.R. § 60.482-7(c)(2), (d)(1), (d)(2), and the Act by failing to:

- a. attempt a first repair of Valve No. 3097 no later than November 2, 1998;
- b. repair Valve No. 3097 no later than November 12, 1998; and
- c. perform monthly monitoring of Valve No. 3097.

46. Pursuant to 113(b) of the Act, 42 U.S.C. § 7613(b), and 40 C.F.R. § 19.4 (table), Equistar is liable for a civil penalty of up to \$27,500 per day for each violation of the Act occurring after January 30, 1997.

SECOND CLAIM FOR RELIEF
(NSPS - Subpart VV)
Failure to Monitor Valve 2100

47. Paragraphs 1 through 20, 24, and 25 of the Complaint are incorporated herein by reference as if fully set forth below.

48. “Equipment” within the Ethylene-Propylene Unit that is subject to the requirements of Subpart VV includes, pursuant to 40 C.F.R. § 60.481, valves “in VOC service.” “In VOC service,” pursuant to 40 C.F.R. § 60.481, means that the equipment contains or is in contact with a process fluid that is at least 10% VOC by weight. Ethylene is a “VOC” within the meaning of 40 C.F.R. § 60.481 and 40 C.F.R. § 60.2.

49. Valve No. 2100 is a valve in the Ethylene-Propylene Unit.

50. Valve No. 2100 is in contact with a process stream that is 58.70% ethylene, 28.10% ethane, and 0.70% propylene.

51. Ethylene and propylene are “VOCs” as those terms are defined at 40 C.F.R. § 60.2.

52. Valve No. 2100 is a valve “in VOC service” within the meaning of that term as defined in 40 C.F.R. § 60.481.

53. Valve No. 2100 is subject to the requirements of Subpart VV.

54. Valve No. 2100 is “in light liquid service” within the meaning of 40 C.F.R. §§ 60.481 and 60.482-7.

55. Valve No. 2100 is subject to 40 C.F.R. §§ 60.482-7, “Standards: Valves in gas/vapor service and in light liquid service.”

56. On November 17, 1998, Valve No. 2100 was monitored and an instrument

reading of greater than 10,000 ppm was detected. Pursuant to 40 C.F.R. § 60.482-7(b), if an instrument reading of 10,000 ppm or greater is measured, a leak is detected. On October 27, 1998, a “leak” within the meaning of 40 C.F.R. § 60.482-7(b) was detected.

57. Equistar monitored Valve No. 2100 on January 19, 1999.

58. Equistar violated 40 C.F.R. § 60.482(c)(2) and the Act by failing to monitor Valve No. 2100 monthly for (2) two successive months until a leak was not detected.

59. Pursuant to 113(b) of the Act, 42 U.S.C. § 7613(b), and 40 C.F.R. § 19.4 (table), Equistar is liable for a civil penalty of up to \$27,500 per day for each violation of the Act occurring after January 30, 1997.

THIRD CLAIM FOR RELIEF
(NSPS - Subpart VV)
Failure to Timely Repair Valve 1211

60. Paragraphs 1 through 20, 24, and 25 of the Complaint are incorporated herein by reference as if fully set forth below.

61. “Equipment” within the Ethylene-Propylene Unit that is subject to the requirements of Subpart VV includes, pursuant to 40 C.F.R. § 60.481, valves “in VOC service.” “In VOC service,” pursuant to 40 C.F.R. § 60.481, means that the equipment contains or is in contact with a process fluid that is at least 10% VOC by weight. Ethylene is a “VOC” within the meaning of 40 C.F.R. § 60.481 and 40 C.F.R. § 60.2.

62. Valve No. 1211 is a valve in the Ethylene-Propylene Unit.

63. Valve No. 1211 is in contact with a stream that is 35.70% ethylene, 13.50% propane, and 6.70% propylene.

64. Ethylene, propane, and propylene are “VOCs” as that term is defined at

40 C.F.R. § 60.2.

65. Valve No. 1211 is a valve “in VOC service” within the meaning of that term as defined in 40 C.F.R. § 60.481.

66. Valve No. 1211 is subject to the requirements of Subpart VV.

67. Valve No. 1211 is “in light liquid service” within the meaning of 40 C.F.R.

§§ 60.481 and 60.482-7.

68. Valve 1211 is subject to 40 C.F.R. §§ 60.482-7, “Standards: Valves in gas/vapor service and in light liquid service.”

69. On December 14, 1998 Valve No. 1211 was monitored and an instrument reading of greater than 10,000 ppm was detected. Pursuant to 40 C.F.R. § 60.482-7(b), if an instrument reading of 10,000ppm or greater is measured, a leak is detected. On December 14, 1998, a “leak” within the meaning of 40 C.F.R. § 60.482-7(b) was detected.

70. Equistar repaired Valve No. 1211 (by replacing it) on January 25, 1999.

71. Equistar violated 40 C.F.R. § 60.482-7(d)(1) and the Act by failing to repair Valve No. 1211 no later than December 29, 1998.

72. Pursuant to 113(b) of the Act, 42 U.S.C. § 7613(b), and 40 C.F.R. § 19.4 (table), Equistar is liable for a civil penalty of up to \$27,500 per day for each violation of the Act occurring after January 30, 1997.

FOURTH CLAIM FOR RELIEF
(NSPS - Subpart VV)
Failure to Monitor Valve 2751

73. Paragraphs 1 through 20, 24, and 25 of the Complaint are incorporated herein by reference as if fully set forth below.

74. “Equipment” within the Ethylene-Propylene Unit that is subject to the requirements of Subpart VV includes, pursuant to 40 C.F.R. § 60.481, valves “in VOC service.” “In VOC service,” pursuant to 40 C.F.R. § 60.481, means that the equipment contains or is in contact with a process fluid that is at least 10% VOC by weight. Ethylene is a “VOC” within the meaning of 40 C.F.R. § 60.481 and 40 C.F.R. § 60.2.

75. Valve No. 2751 is a valve in the Ethylene-Propylene Unit.

76. Valve No. 2751 is in contact with a process stream that is 0.20% propane, 0.10% ethane, and 99.70% propylene.

77. Propylene is a “VOC” as that term is defined at 40 C.F.R. § 60.2.

78. Valve No. 2751 is a valve “in VOC service” within the meaning of that term as defined in 40 C.F.R. § 60.481.

79. Valve No. 2751 is subject to the requirements of Subpart VV.

80. Valve No. 2751 is “in vapor service” within the meaning of 40 C.F.R. §§ 60.481 and 60.482-7.

81. Valve No. 2751 is subject to 40 C.F.R. §§ 60.482-7, “Standards: Valves in gas/vapor service and light liquid service.

82. On December 15, 1998, Valve No. 2751 was monitored and an instrument reading of greater than 10,000 ppm was detected. Pursuant to 40 C.F.R. § 60.482-7(b), if an instrument reading of 10,000ppm or greater is measured, a leak is detected. On December 15, 1998, a “leak” within the meaning of 40 C.F.R. § 60.482-7(b) was detected.

83. Equistar did not monitor Valve 2751 monthly for two (2) successive months until a leak was not detected. EPA has no records of Equistar monitoring Valve No. 2751 after

December 15, 1998.

84. Equistar violated 40 C.F.R. § 60.482-7(c)(2) and the Act by failing to perform monthly monitoring of Valve No. 2751 until a leak was not detected for two successive months.

85. Pursuant to 113(b) of the Act, 42 U.S.C. § 7613(b), and 40 C.F.R. § 19.4 (table), Equistar is liable for a civil penalty of up to \$27,500 per day for each violation of the Act occurring after January 30, 1997.

FIFTH CLAIM FOR RELIEF
(NSPS - Subpart Kb)
Failure to Perform Compliance Test and Submit Reports for Flare 009

86. Paragraphs 1 through 17 and 21 through 25 of the Complaint are incorporated herein by reference as if fully set forth below.

87. Pursuant to 40 C.F.R. § 60.110b, a storage vessel with a capacity greater than or equal to 40 cubic meters that is used to store volatile organic liquids (VOLs) for which modification commenced after July 1984 is an affected facility subject to the 40 C.F.R. Part 60, Subpart Kb-Standards.

88. Equistar is the owner or operator of a pyrolysis gasoline tank (Tank V-410).

89. The storage capacity of Tank V-410 is 3,560,000 gallons which is equivalent to 13,474.6 cubic meters.

90. Equistar's predecessor, Oxychem, modified tank V-410 in 1987.

91. A major component of pyrolysis gasoline is benzene which is a volatile organic liquid, pursuant to 40 C.F.R. 60.111b(k).

92. Tank V-410 is an affected facility subject to Subpart Kb.

93. Tank V-410 is equipped with a closed vent system that vents to Flare 009.

94. Tank V-410 and Flare 009 are subject to 40 C.F.R. § 60.113b(d), 40 C.F.R. § 60.112b(a)(3), and 40 C.F.R. § 60.18(e) and (f).
95. 40 C.F.R. § 60.18(f)(1), requires that a owner or operator uses Method 22 of Appendix A to Part 61 to determine the compliance of flares with the visible emission provisions of Subpart A.
96. 40 C.F.R. § 60.18(f)(2) through (f)(6) contains monitoring requirements for pilot flame monitoring and several performance testing requirements (measurement of the net heating value of the gas combusted in the flare, measurement of the flow rate of the gas combusted in the flare, calculation of the actual exit velocity of the flare) for non-assisted, air-assisted, or steam-assisted flame flares intended to be used by the owner or operator of a stationary source subject to a VOC emission standard.
97. Pursuant to 40 C.F.R. § 60.115b(d)(1), after installing a closed vent system and flare to comply with § 60.112b, the owner or operator shall furnish a report within 6 months of the initial start-up date containing the measurements required by § 60.18(f)(1) through (f)(6) as required by § 60.8 of the General Provisions.
98. Pursuant to 40 C.F.R. § 60.8(a), within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of such facility and at such other times as may be required by the Administrator under Section 114 of the CAA, the owner or operator of such facility shall conduct performance test(s) and furnish the Administrator a written report of the results of such performance test(s).
99. Equistar complied partially with 40 C.F.R. § 60.18 for Flare 009. Equistar performed the visible emissions test that is set forth at 40 C.F.R. § 60.18(f)(1).

100. Equistar violated 40 C.F.R. Part 60, Subpart Kb, Subpart A, and the Act by failing to perform the complete performance tests and provide the required reports which would satisfy the requirements of 40 C.F.R. § 60.18(f)(2) through (f)(6) and 40 C.F.R. § 60.115b(d)(1). Equistar is therefore subject to suit pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b).

SIXTH CLAIM FOR RELIEF

(Benzene - NESHAP)

Failure to Comply with Maintenance Requirements - Oil Water Separator

101. Paragraphs 1 through 11, and 26 through 34 of the Complaint are incorporated herein by reference as if fully set forth below.

102. Pursuant to 40 C.F.R. § 61.12(c), the owner or operator of each stationary source shall maintain and operate the source, including associated equipment for air pollution control, in a manner consistent with good air pollution control practice for minimizing emissions.

103. The Plant is a “stationary source” within the meaning of 40 C.F.R. § 61.12(c).

104. Equistar’s oil-water separator is an air pollution control equipment associated with the source within the meaning of 40 C.F.R. § 61.12(c).

105. Equistar’s oil-water separator receives waste streams that includes benzene.

106. During the inspection of November 15 through 18, 1999 (“Inspection”), EPA representatives took photographs documenting that the oil-water separator was open.

107. In failing to keep its oil-water separator closed, Equistar violated the Act and is subject to suit pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b).

108. Pursuant to 113(b) of the Act, 42 U.S.C. § 7613(b), and 40 C.F.R. § 19.4 (table), Equistar is liable for a civil penalty of up to \$27,500 per day for each violation of the Act occurring after January 30, 1997.

SEVENTH CLAIM FOR RELIEF
(Benzene - NESHAP)
Failure to Equip Valve 14014

109. Paragraphs 1 through 11 and 26 through 34 of the Complaint are incorporated herein by reference as if fully set forth below.

110. Valve No. 14014, is part of the Ethylene-Propylene process unit, is a valve “in benzene service” within the meaning of 40 C.F.R. §§ 61.110 and 61.111 and is an “open-ended valve or line” intended to operate “in volatile hazardous air pollutant (VHAP) service” within the meaning of 40 C.F.R. §§ 61.240(a) and (b) and 61.241.

111. Valve No. 14014 is subject to the requirement of 40 C.F.R. Part 61 Subpart J, Subpart V, and Subpart A.

112. Pursuant to 40 C.F.R. § 61.242-6(a)(1), Valve No.14014 had to be equipped with a cap, blind flange, plug, or a second valve.

113. At the time of the Inspection, Valve No. 14014 was not equipped with a cap, blind flange, plug or a second valve.

114. In failing to equipped Valve No.14014 with a cap, blind flange, plug, or a second valve, Equistar violated 40 C.F.R. § 61.242-6, 40 C.F.R. § 61.112(a), and the Act.

115. Pursuant to 113(b) of the Act, 42 U.S.C. § 7613(b), and 40 C.F.R. § 19.4 (table), Equistar is liable for a civil penalty of up to \$27,500 per day for each violation of the Act occurring after January 30, 1997.

RELIEF REQUESTED

WHEREFORE, Plaintiff, United States of America, prays for the following relief:

1. For a civil penalty of not more than \$27,500 per day for each violation of the Act

and the regulations promulgated thereunder as alleged in Claims 1 through 4 and 6 through 7.

2. For an injunction requiring Equistar to conduct the performance tests on Flare 009 required by 40 C.F.R. § 60.18(f) and to submit the reports required by 40 C.F.R. § 60.18, as alleged in Claim 5.

3. For cost and disbursements incurred in this action; and

4. For such relief that this Court deems just and proper.

Respectfully Submitted,

Thomas L. Sansonetti
Assistant Attorney General
Environment and Natural Resources Division

Date:

5/14/04

Catherine R. McCabe, Deputy Section Chief
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